

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

ALEX CRUZ,

Petitioner,

VS.

ROGER A CHAFFIN, *et al*,

Respondents.

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CIVIL ACTION NO. 2:14-CV-306

**ORDER ADOPTING  
MEMORANDUM AND RECOMMENDATION**

Pending before the Court is Respondent's Motion for Summary Judgment (D.E. 14). On March 12, 2015, United States Magistrate Judge B. Janice Ellington issued a Memorandum and Recommendation (M&R, D.E. 18), recommending that Respondent's motion be granted. Petitioner filed his objections (D.E. 19) on March 23, 2015. Those objections are discussed below.

First, Petitioner objects that the M&R should not have granted summary judgment on any complaint based upon his custodial classification because he was not raising that as a complaint. D.E. 19, p. 3. In his complaint, Petitioner challenges the disciplinary proceeding as "impacting the Plaintiff's liberty." *E.g.*, D.E. 1, p. 7. The Magistrate Judge properly engaged in an exhaustive analysis of whether any liberty interests were implicated by reviewing each aspect of the sanctions assessed against Petitioner, including changes to his custodial classification. The M&R's treatment of the issue was correct. Petitioner's first objection is **OVERRULED**.

Second, while he has no objection to the standard of review applied and while he admits to preparing and mailing the bearer bonds at issue, Petitioner objects to the determination that some evidence supported the guilty finding in his disciplinary proceeding. Specifically, he complains that he has affirmatively demonstrated that the conduct of which he was accused is not illegal, citing the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), 26 U.S.C. § 6221-33. D.E. 19, pp. 3-4. TEFRA nowhere authorizes an individual or a business entity to issue fictitious bearer bonds to access United States Treasury Funds.

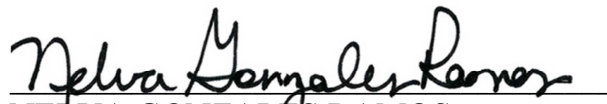
Respondent asserts that Petitioner's bearer bond scheme is unlawful under 18 U.S.C. § 514 (fictitious obligations) and § 472 (counterfeit obligations or securities) and that Petitioner attempted to obtain access to nearly \$16 billion from the United States Treasury. This was based, in part, on the United States Department of Treasury interpretation of the statutes. D.E. 17-1, p. 2. Federal courts do not disturb an executive agency's statutory construction unless it is wholly arbitrary, capricious, or manifestly contrary to statute. *Chevron v. Natural Resources Defense Council*, 467 U.S. 837, 844 (1984). Instead, federal courts determine if there is some evidence to support the disciplinary conviction. *E.g., Viens v. Daniels*, 871 F.2d 1328, 1335 (7th Cir. 1989). The M&R's conclusion that evidence supported Respondent's disciplinary action is correct and the Court rejects Petitioner's argument that he demonstrated that his conduct was not illegal as a matter of law. Petitioner's second objection is OVERRULED.

Third, Petitioner re-urges his argument that employees of the Bureau of Prisons breached their employment contracts by failing to uphold the United States Constitution.

He does not articulate any challenge to the Magistrate Judge's reasoning, which demonstrates that there is no merit to Petitioner's breach of contract claim. The Court has reviewed the M&R and agrees with its conclusions regarding this claim. Petitioner's third objection is **OVERRULED**.

Having reviewed the findings of fact, conclusions of law, and recommendations set forth in the Magistrate Judge's M&R, as well as Petitioner's objections, and all other relevant documents in the record, and having made a de novo disposition of the portions of the Magistrate Judge's M&R to which objections were specifically directed, the Court **OVERRULES** Petitioner's objections and **ADOPTS** as its own the findings and conclusions of the Magistrate Judge. Accordingly, Respondents' Motion for Summary Judgment (D.E. 14) is **GRANTED**. The Petition for Writ of Habeas Corpus is **DENIED**.

ORDERED this 24th day of April, 2015.

  
NELVA GONZALES RAMOS  
UNITED STATES DISTRICT JUDGE